

§ 147-86.71. ABLE Program.

(a) Achieving a Better Life Experience (ABLE) Program Trust. – There is established an ABLE Program Trust to be administered by the ABLE Program Board of Trustees established in G.S. 147-86.72 to enable contributors to save funds to meet the costs of the qualified disability expenses of eligible individuals.

(b) Accounts. – The following provisions apply to an ABLE account:

- (1) An account owner or contributor may establish an account by making an initial contribution to the ABLE Program Trust, signing an application form approved by the Board or its designee, and naming the designated beneficiary. If the contributor is not the account owner, the account owner or the account owner's parent, guardian, trustee, or agent shall also sign the application form.
- (2) Any person may make contributions to an account after the account is opened.
- (3) Contributions to an account shall be made only in U.S. Dollars.
- (4) Contributions to an account shall not exceed maximum contribution limits applicable to program accounts in accordance with the federal ABLE Act.
- (5) An account owner may change the designated beneficiary of an account to an eligible individual who is a member of the family of the former designated beneficiary. At the direction of an account owner, all or a portion of an account may be transferred to another account of which the designated beneficiary is a member of the family of the designated beneficiary of the transferee account if the transferee account was created pursuant to this section or in accordance with the federal ABLE Act.

(c) Contributions. – The Board is authorized to accept, hold, invest, and disburse contributions, and interest earned on such contributions, from contributors as trustees of the ABLE Program Trust. The Board shall hold all contributions to the ABLE Program Trust, and any earnings thereon, in the ABLE Program Trust and shall invest the contributions in accordance with this section. The assets of the ABLE Program Trust shall at all times be preserved, invested, and expended for the purpose of providing benefits to designated beneficiaries and paying reasonable expenses of administering the ABLE Program Trust and investing the assets of the ABLE Program Trust. Nothing in this Article shall be construed to prohibit the Board from accepting, holding, and investing contributions from contributors who reside outside of North Carolina. Neither the contributions to the ABLE Program Trust, nor the earnings thereon, shall be considered State monies, assets of the State, or State revenue for any purpose. An account or a legal or beneficial interest in an account is not subject to attachment, levy, or execution by a creditor of the designated beneficiary.

(d) Limitations. – The Board, in administering the ABLE Program Trust, shall ensure each of the following:

- (1) A rollover from an ABLE account shall constitute a qualified rollover if the rollover distribution is in accordance with the federal ABLE Act.
- (2) A person may make contributions for a taxable year for the benefit of an individual who is an eligible individual for the taxable year to an ABLE account that is established to meet the qualified disability expenses of the designated beneficiary of the account.
- (3) A designated beneficiary is limited to one ABLE account.
- (4) Repealed by Session Laws 2016-56, s. 9(d), effective June 30, 2016.
- (5) Except as permitted under the federal ABLE Act, a person does not direct the investment of any contributions to or earnings from the Achieving a Better Life Experience Program more than two times each year.

- (6) An account or a legal or beneficial interest in an account is not assignable, pledged, or otherwise used to secure or obtain a loan or other advancement.
- (7) Separate records and accounting are maintained for each ABLE account.
- (8) Reports are made no less frequently than annually to each ABLE account owner.
- (9) A parent, trustee, or guardian appointed as a signatory of an ABLE account does not have or acquire any beneficial interest in the account and administers the account for the benefit of the designated beneficiary. (2015-203, s. 1; 2016-56, ss. 9(a), (d); 2017-212, s. 3.2(b).)